

**UNITED STATES COURT OF APPEALS**

**JUN 25 2002**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

HECTOR E. REYES,

Petitioner - Appellant,

v.

STATE OF UTAH; JAMES SMITH,  
Warden,

Respondents - Appellees.

No. 02-4009

(D.C. No. 2:01-CV-741-S)

(D. Utah)

**ORDER AND JUDGMENT\***

Before **KELLY, McKAY, and MURPHY**, Circuit Judges.

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This is a pro se § 2254 state prisoner appeal. Mr. Reyes pleaded guilty to first degree rape of a child and was sentenced to fifteen years to life

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

imprisonment. In his federal habeas petition, Mr. Reyes claimed unlawful inducement of a guilty plea, a lack of understanding of the nature of the charges and the consequences of his plea, and that the trial court and the Utah Supreme Court acted in bad faith. The district court dismissed Mr. Reyes' claims on the merits. Petitioner then applied to this court for a certificate of appealability.

In order for this court to grant a certificate of appealability, Petitioner must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To do so, Petitioner must demonstrate that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quotations omitted).

We have carefully reviewed Mr. Reyes' brief, the district court's disposition, and the record on appeal. Nothing in the facts, the record on appeal, or Petitioner's brief raises an issue which meets our standards for the grant of a certificate of appealability. For substantially the same reasons as set forth by the district court in its Order of December 20, 2001, we cannot say that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should

have been resolved in a different manner.” Id. We **DENY** Petitioner’s request for a certificate of appealability and **DISMISS** the appeal.

Entered for the Court

Monroe G. McKay  
Circuit Judge